

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11359 of 2004

Between:

S. Venugopal, S/o. late Vedavyas, Hindu, R/o. 7-1-277/140(278/C) SR Nagar,
Hyderabad.

..... PETITIONER

AND

- 1 The Office of the Deputy Registrar of Coop. Societies-cum-Sale Officer,
Hyderabad.
- 2 The Vasavi Coop. Urban Bank Ltd. Malakpet, Hyderabad, rep by is Managing
Director/ Chief Executive Officer, (appointed by Govt. of A.P). having place of R/o at
Plot No. 1122, Rd.No. 54, Jubilee Hills, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ or direction, more particularly in the nature of writ of certiorari and quash the proceedings of the 1st Respondent passed on memo dt. 26-6-2004 in E.A.No. 1/2004 in E.P.No. 559/1999, dt. 03.07.2004 (Ex.P1) as illegal, violative of principles of natural justice, arbitrary and illegal while issuing necessary directions and pass

Counsel for the Petitioner: MR.K.S.GOPALA KRISHNAN

Counsel for the Respondent No.1 : G.P. FOR COOPERATION

Counsel for the Respondent No.2 : MR.S.ASHOK ANAND KUMAR

The Court made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the proceedings of the first respondent, dated 03.07.2004 under which the first respondent did not allow the petitioner to adduce evidence in support of his claim and an order was passed rejecting his request.

2. According to the petitioner, the property against which the second respondent-Bank is proceeding for recovery of certain dues from its debtors, belongs to the petitioner and his signatures were obtained by his maternal uncle as if he signed as a major, mortgaging the said property, though in fact the petitioner was only a minor as on that date. Therefore, according to the petitioner, there is no valid mortgage and in order to prove his case, he filed a claim petition in E.A.No.1 of 2004 in E.P.No.559 of 1999 as he proposed to adduce evidence in support of his case. But, the first respondent did not allow him and rejected his claim to adduce evidence. Therefore, the present writ petition.

3. According to the petitioner, unless and until he is allowed to adduce evidence in support of his case, there is no proper adjudication on the claim. The first respondent who is functioning as a Quasi-Judicial authority, is obligated to receive evidence as it is a Civil Court for all purposes and adjudicate upon the issue. Therefore, the action of the first respondent in refusing to receive evidence is clearly illegal and without jurisdiction.

4. This matter when came up for admission on 06.07.2004, adjourned to today to enable the learned counsel for the second respondent-Bank to get instructions. However, the learned counsel for the respondent reported that he could not get any instructions in view of on going strike in the second respondent-Bank.

5. Heard both sides and considered the material on record.

6. Admittedly, the impugned order passed by the first respondent refusing to allow the petitioner to adduce evidence is clearly illegal and without jurisdiction. The first respondent as a Sale Officer, is functioning as a Quasi-Judicial authority. Therefore, he is obligated to receive evidence by giving sufficient opportunity to the parties and then only he has to decide the issue raised in the claim petition.

7. Under the above circumstances, the impugned order is set aside and the first respondent is directed to receive evidence both oral and documentary, and then adjudicate upon the issue expeditiously. The petitioner is also directed to adduce evidence both oral and documentary within a period of three weeks from the date of receipt of a copy of this order. After receipt of the above evidence within the above period fixed by this Court, the first respondent is directed to hear the parties and decide the claim of the petitioner on merits. If the petitioner fails to adduce evidence within the above stipulated period, it is open to the first respondent to proceed and decide the issue on merits.

8. With the above directions, the writ petition is disposed of. No costs.

09.07.2004

VGB

To

1 The Office of the Deputy Registrar of Coop. Societies-cum-Sale Officer,
Hyderabad.

2 The Managing Director/ Chief Executive Officer, (appointed by Govt. of A.P).
Vasavi Coop. Urban Bank Ltd. Malakpet, Hyderabad, R/o at Plot No. 1122, Rd.No.
54, Jubilee Hills, Hyderabad.

3 2 CCs to the Govt. Pleader for Cooperation, High Court Buildings, Hyderabad
(OUT)

4 2 CD copies